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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,529	09/15/2003	Youichi Kondou	1573.1023	8031
21171 7590 01/26/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER OKORONKWO, CHINWENDU C	
			ART UNIT	PAPER NUMBER
			2136	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/26/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/661,529

Applicant(s)

KONDOU ET AL.

Examiner

Chinwendu C. Okoronkwo

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20030915.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Pursuant to USC 131, claims 1-22 are presented for examination.
2. Claims 1-22 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12 and 14-21 are rejected under 35 U.S.C. 102(e) as being disclosed by Abrams et al. (U.S. Patent Application No. 2003/0185301 A1).

Regarding claim 1, Abrams et al., discloses a receiver comprising:

decoder means for decoding an audio and/or video data stream of a received digital broadcast program; and processor means for storing an identification code of said received digital broadcast program and a profile representative of quality of said decoded audio and/or video data stream (0046-0048, 0052-0054 and 0155-0159).

Regarding claim 2, Abrams et al., discloses the receiver according to claim 1, further comprising means for transmitting, to another apparatus, both of said identification code of said received digital broadcast program and said profile which are stored in said processor means (0042-0044, 0052-0054 and 0100).

Regarding claim 3, Abrams et al., discloses the receiver according to claim 1, further comprising demodulator means for demodulating a digital signal of said received digital broadcast program; and descrambler means for descrambling said demodulated digital signal to produce said audio and/or video data stream (0046-0048).

Regarding claim 4, Abrams et al., discloses the receiver according to claim 1, wherein said profile includes description of a resolution or frame rate of a reproduced picture (0071-0075).

Regarding claim 5, Abrams et al., discloses the receiver according to claim 1, wherein said profile includes description of stereo, monaural, or 5.1 channel of a reproduced sound (0071-0075).

Regarding claim 6, Abrams et al., discloses a receiver comprising: processor means for storing a predetermined profile representative of quality of an audio and/or video data stream; descrambler means for descrambling a digital signal of

received digital broadcast program to produce an audio and/or video data stream; and decoder means for decoding said produced audio and/or video data stream in accordance with said predetermined profile; said processor means further storing an identification code of said received digital broadcast program (0046-0048, 0052-0054 and 0155-0159).

Regarding claim 7, Abrams et al., discloses the receiver according to claim 6, further comprising means for transmitting, to another apparatus, both of said identification code of said received digital broadcast program and said profile which are stored in said processing means (0042-0044, 0052-0054 and 0100).

Regarding claim 8, Abrams et al., discloses the receiver according to claim 6, wherein when said produced audio and/or video data stream is decoded, said processor means stores other profile data representative of actual quality of said decoded audio and/or video data stream (0102-0105 and 0155-0159).

Regarding claim 9, Abrams et al., discloses the receiver comprising: processor means for storing a predetermined profile representative of quality of an audio and/or video data stream; descrambler means for descrambling a digital signal of a received digital broadcast program to produce an audio and/or video data stream; and decoder means for decoding said produced audio and/or video data stream in accordance with an actually available

profile, when it cannot be decoded in accordance with said predetermined profile; said processor means storing an identification code of said received digital broadcast program and another profile representative of actual quality of an audio and/or video signal decoded by said decoder mean (0046-0048, 0052-0054 and 0155-0159).

Regarding claim 10, Abrams et al., discloses the receiver according to claim 9, further comprising means for transmitting, to another apparatus, both of said identification code of said received digital broadcast program and said profile which are stored in said processor means (0042-0044, 0052-0054 and 0100).

Regarding claim 11, Abrams et al., discloses the receiver according to claim 9, wherein when said decoder means decodes said produced audio and/or video data stream in accordance with said predetermined profile, said processor means allows said descrambler means to perform the descrambling (0046-0048, 0052-0054 and 0155-0159).

Regarding claim 12, Abrams et al., discloses the receiver according to claim 1, wherein said processor means is provided in a smart card disposed within said receiver (0102-0105).

Regarding claim 14, Abrams et al., discloses a program for a receiver stored on a storage medium, said program being operable to execute the steps of: causing an audio and/or video data stream of a received digital broadcast program to be decoded; and storing an identification code of said received digital broadcast program and a profile representative of quality of said decoded audio and/or video data stream (Rejected under the same rationale as claim 1 and paragraph 0031).

Regarding claim 15, Abrams et al., discloses a program for a receiver stored on a storage medium, said program being operable to execute the steps of: causing a digital signal of a received digital broadcast program to be descrambled to produce an audio and/or video data stream; causing said produced audio and/or video data stream to be decoded in accordance with a predetermined profile representative of quality of an audio and/or video data stream; and storing an identification code of said digital broadcast program, and a predetermined profile representative of quality of said produced audio and/or video data stream (Rejected under the same rationale as claim 1 and paragraph 0031).

Regarding claim 16, Abrams et al., discloses the program according to claim 15, being operable to further execute the step of causing both of said stored identification code of said received digital broadcast program and said profile to

be transmitted to another apparatus (Rejected under the same rationale as claim 2 and paragraph 0031).

Regarding claim 17, Abrams et al., discloses the program according to claim 15, being operable to further execute the step of storing other profile data representative of actual quality of said decoded audio and/or video data stream, when said produced audio and/or video data stream is decoded (Rejected under the same rationale as claim 8 and paragraph 0031).

Regarding claim 18, Abrams et al., discloses the program for a receiver stored on a storage medium, said program being operable to execute the steps of: causing a digital signal of a received digital broadcast program to be descrambled to produce an audio and/or video data stream; causing said produced audio and/or video data stream to be decoded in accordance with an actually available profile, when it cannot be decoded in accordance with a predetermined profile representative of quality of an audio and/or video data stream; and storing an identification code of said digital broadcast program, and another profile representative of actual quality of said decoded audio and/or video signal (Rejected under the same rationale as claim 8 and paragraph 0031).

Regarding claim 19, Abrams et al., discloses the program according to claim 18, being operable to further execute the step of transmitting, to another apparatus,

both of said stored identification code of said received digital broadcast program and said profile (Rejected under the same rationale as claim 10 and paragraph 0031).

Regarding claim 20, Abrams et al., discloses a program for a receiver stored on a storage medium, said program being operable to execute the steps of: causing a digital signal of a received digital broadcast program to be descrambled to produce an audio and/or video data stream; and causing said produced audio and/or video data stream to be decoded in accordance with a predetermined profile representative of quality of an audio and/or video data stream (Rejected under the same rationale as claim 11 and paragraph 0031).

Regarding claim 21, Abrams et al., discloses a program for a receiver stored on a storage medium, said program being operable to execute the steps of: receiving both of an identification code of a digital broadcast program reproduced on a receiver and a profile representative of quality of a reproduced audio and/or video signal of said reproduced digital broadcast program; and calculating a metric of use of said reproduced digital broadcast program in accordance with said profile (Rejected under the same rationale as claim 12 and paragraph 0031).

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 21 are rejected under 35 U.S.C. 102(b) as being disclosed by Rowe et al. (U.S. Patent No. 6,792,615).

Regarding claim 13, Rowe et al., discloses an apparatus comprising billing means, said billing means receiving both of an identification code of a digital broadcast program reproduced on a receiver and a profile representative of quality of a reproduced audio and/or video signal of said reproduced digital broadcast program, said billing means calculating a metric of use of said reproduced digital broadcast program in accordance with said profile (col. 21 lines 3-62).

Regarding claim 22, Rowe et al., discloses an information processing apparatus, a method for calculating charges for reproduced digital broadcast programs, said method comprising the steps of: receiving both of an identification code of a digital broadcast program reproduced on a receiver and a profile representative of quality of a reproduced audio and/or video signal of said reproduced digital broadcast program; and calculating a metric of use of said reproduced digital broadcast program in accordance with said profile (col. 21 lines 3-62).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chinwendu C. Okoronkwo whose telephone number is (571) 272 2662. The examiner can normally be reached on MWF 9:30 - 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on (571) 272 4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

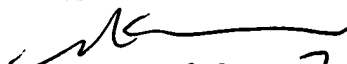
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CCO

January 20, 2007

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